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The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HUGH H. BIRCH, DAVID A. BEITEL
and DHIREN R. FONSECA

MAILED

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2006-0194
Application No. 09/648,581

HEARD: FEBRUARY 9, 2006

Before FRANKFORT, McQUADE and CRAWFORD, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Hugh H. Birch et al. appeal from the examiner's rejection of claims 1-29, all of the claims pending in the application.

THE INVENTION

The invention relates to "the purchase of travel services, such as airfare, in an electronic exchange transaction" (specification, page 1). Representative claims 1, 11, 12 and 24 read as follows:

1. A computer-implemented method of matching an offer for a product with a quote, comprising:

at a first computer:

receiving the offer from a customer;

selecting a preferred provider from a group of preferred providers;

obtaining at least one quote for the product from the selected preferred provider;

evaluating the at least one quote from the selected preferred provider to determine if the at least one quote satisfies the offer;

if the at least one quote from the selected preferred provider does not satisfy the offer, repeatedly:

selecting another preferred provider from the group of preferred providers;

obtaining at least one quote for the product from the selected preferred provider; and

evaluating the at least one quote from the selected preferred provider to determine if the at least one quote satisfies the offer;

until the offer is satisfied or until the group of preferred providers is exhausted;

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if the group of preferred providers is exhausted without satisfying the offer, attempting to satisfy the offer from a group of non-preferred providers; and

if the offer is satisfied from either the group of preferred providers or the group of non-preferred providers, negotiating the purchase of the product from the provider associated with the satisfying quote.

11. A computer-readable medium having computer-executable instructions for performing the method recited in Claim 1.

12. A computer-readable medium having computer-executable instructions which, when executed on a computer, comprise:

receiving from a customer machine an offer representing a value that a customer is willing to exchange for a product;

ranking each preferred provider in a plurality of preferred providers according to a preferred criteria;

selecting a highest ranked preferred provider from the plurality of preferred providers; and

attempting to match the offer from the customer with the highest ranked preferred provider by determining whether a quote obtained from the highest ranked preferred provider satisfies the preferred criteria associated with the highest ranked preferred provider.

24. A computer system for matching offers with quotes, comprising:

an online travel service exchanger, including:

a web server component configured to interface with a customer machine over a network connection and receive from the customer machine an offer for a product, the offer identifying a cost for the product;

a travel server component configured to obtain at least one quote associated with each provider in a plurality of providers to

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provide the product at a cost, the plurality of providers comprising at least two groups:

a preferred providers group and a non-preferred providers group, each preferred provider having a distinct preference ranking; and

the online travel service exchanger being further configured to attempt to match the offer with each preferred provider in the preferred providers group in descending order of preference.

THE PRIOR ART

The references relied on by the examiner as evidence of anticipation and obviousness are:

Webber et al. (Webber)	5,331,546	Jul. 19, 1994
DeLorme et al. (DeLorme)	5,948,040	Sep. 07, 1999

THE REJECTIONS

Claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Webber.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Webber.

Claims 24-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Webber in view of DeLorme.

Attention is directed to the main and reply briefs (filed January 7, 2005 and July 20, 2005) and to the appealed Office action and answer (mailed October 1, 2004 and May 18, 2005) for the respective positions of the appellants and examiner regarding the merits of these rejections.

DISCUSSION

Webber, the examiner's primary reference, discloses a computer-implemented trip planner and itinerary selection system. As shown in Figure 1, the system comprises a number of entry devices such as personal computers 10 and computer terminals 12, a processor 18, an airline reservation system 30, and communication links 14, 16 and 28 connecting the personal computers and computer terminals to the processor and the processor to the airline reservation system. The processor has access to a storage device which maintains a tariff file 20 containing information relating to airline schedules, routs, connecting times, fares, and the like, a traveler file 22 containing information on individual and corporate customers, and a rules file 24 containing information as to the applicability of fares to particular flights or itineraries. To use the system,

the travel arranger only need to enter a trip request, and the system responds by fully automatically and rapidly finding the least costly but still valid itineraries in terms of a preset policy, individualized for the particular traveller, regarding acceptable or desirable price tradeoffs between cost on the one and time and convenience on the other [column 2, lines 4-10].

Of particular interest in this appeal is Webber's use of calculated "preference" and "non-preference" rankings to evaluate prospective itineraries. Figures 4D and 4E show sample calculations which are described in the reference as follows:

The purpose of the flight search procedure illustrated in FIG. 4 is to find all of the itineraries which could be used to satisfy the trip request being processed (e.g., for which flight and seats are available and which meet the constraints of the relevant policy file and traveller file and any other constraints that may have been keyed in FIG. 3) and to rank these candidate itineraries in terms of "non-preference" factors (e.g., wide body aircraft is better, stops are undesirable, etc.) and to rank them in terms of personal preference factors (e.g., this traveller prefers this particular airline and dislikes another airline, or wishes to avoid a particular airport, etc.). The output of this flight search procedure of FIG. 4 is a set of itineraries which have survived so far as candidates for this trip, ranked as stated, which can then be processed in accordance with the procedure of FIG. 5 to find the lowest fare candidate itineraries from which the travel arranger [can] select one for this trip request [column 7, line 53, through column 8, line 2];

and

. . . For each of the candidate itineraries which remains after step 140, the processor at step 142 calculates a "non-preference" rank and at step 144 calculates a "preference" rank, e.g., by using the calculations illustrated at steps 142 and 144, respectively, in the drawing. The non-preference ranking addresses generally desirable or undesirable aspects of travel while the preference ranking addresses the particular preferences of the traveller being serviced [column 10, line 62, through column 11, line 2].

Each of the rejections on appeal rests on a finding by the examiner that Webber meets the various limitations in independent claims 1, 11, 12 and 24 relating to the preferred and non-preferred providers. Noting Webber's calculated "preference" and "non-preference" rankings of prospective itineraries, the examiner submits that "[s]uch 'preference' ranking of itineraries and 'non-preference' ranking of itineraries are considered a preferred provider group and a non-preferred provider group" (answer, page 6). As persuasively argued by the appellants, however, this position is "illogical and unsupportable" (reply brief, page 6). Clearly, the airlines discussed by Webber, rather than the itineraries offered by the airlines, correspond to the providers recited in the appellants' claims, while the itineraries themselves correspond to the products mentioned in the claims. The examiner's determination to the contrary stems from an unreasonable interpretation of both the subject matter disclosed and claimed by the appellants and that described by Webber. In short, Webber does not teach, and would not have suggested, providers (i.e., airlines) which meet the various preferred and non-preferred provider limitations in independent claims 1, 11, 12 and 24.

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Consequently, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of independent claims 1, 11 and 23, and dependent claims 2-10 and 13-22, as being anticipated by Webber, or the standing 35 U.S.C. § 103(a) rejection of dependent claim 23 as being unpatentable over Webber. As the examiner's application of DeLorme does not cure the shortcomings of Webber relative to the subject matter recited in independent claim 24, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 24, and dependent claims 25-29, as being unpatentable over Webber in view of DeLorme.

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SUMMARY

The decision of the examiner to reject claims 1-29 is reversed.

REVERSED

Charles E. Frankfort

CHARLES E. FRANKFORT
Administrative Patent Judge


JOHN P. McQUADE
Administrative Patent Law

JOHN P. McQUADE
Administrative Patent Judge

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